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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,862	08/09/2001	A. C. McQuaide JR.	00984	3811

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EXAMINER

BARNIE, REXFORD N

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/925,862

Applicant(s)

MCQUAIDE ET AL.

Examiner

REXFORD N BARNIE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 09 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

R N Barnie
REXFORD BARNIE
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, 6, 7, 9, 10, 15, 16, 21, 22, 24, 25, 30, 31 and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bagoren et al. (US 2002/0115424 A1) in view of Laybourn et al. (US Pat# 6,480,710).

Regarding claims 1, 21 and 24, Bagoren teaches a replenishment of pre-paid wireless telephone accounts using short message service in (see figs. 1-2) comprising of a wireless terminal, prepaid account database, prepaid server, a credit or financial system and a prepaid application module could read on software means or the SCP

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(see disclosure) but fails to teach being able to replenish an account using the internet or a wide area network.

Laybourn et al. teaches a system and method for managing prepaid wireless service in (see fig. 1) comprising of a wireless terminal, wireless gateway, a prepaid account database, prepaid account server (CSS), a prepaid application module could include IVR (see col. 6 lines 18-28) and an inherent credit card transaction server in (see col. 7) for replenishing an account.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Laybourn into that of Bagoren thus making it possible to access telephone services over a wide geographical area via the internet even when one might be roaming or traveling.

Regarding claims 2, 7, 10, 16, 22, 25, and 31, see the explanation as set forth regarding claim 1.

Regarding claims 6 and 9, see the explanation as set forth regarding claim 1 because the claimed method steps would be performed by that apparatus.

Regarding claims 15 and 30, see the explanation as set forth regarding claim 1 in addition to the fact that a customer account can be queried for account information during a call set up or recharge to know the balance in the account whether a call would be possible, notoriously well known in the prepaid art.

Regarding claim 36, see the explanation as set forth regarding claim 1. the combination teaches being able to decline a recharge process based on (see col. 2 of

Bagoren or col. 7 of Laybourn). Furthermore, it's notoriously well known to inform a user of an account balance if falls below a threshold (see abstract of Bagoren).

Regarding claims 37-38, it's notoriously well known to send an alert signal either visually or orally using a low tone signal.

Claims 3-5, 8, 11-14, 17-20, 23, 26-29 and 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bagoren et al. (US 2002/0115424 A1) in view of Laybourn et al. (US Pat# 6,480,710) and further in view of Suryanarayana et al. (US Pat# 6,487,401).

Regarding claims 3-5, 8, 11, 17 and 23, the combination fails to teach the claimed subject matter but Suryanarayana et al. teaches prepaid wireless telephone account regeneration in a wireless access protocol system wherein a prepaid account can be recharged in (see figs. 5-8, col. 4, col. 7 lines 20-30).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Suryanarayana et al. into that of the combination thus giving mobile telephone users access to the internet in (see col. 1 of Suryanarayana).

Regarding claims 12 and 18, see abstract of Bagoren.

Regarding claims 13-14 and 19-20, it's notoriously well known to send an alert signal either visually or orally using a low tone signal.

Regarding claims 26-29 and 32-35, see the explanation as set forth above.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **REXFORD N BARNIE** whose telephone number is (703)306-2744. The examiner can normally be reached on M-F 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PRIMARY EXAMINER
REXFORD BARNIE
08/21/04


REXFORD BARNIE
PRIMARY EXAMINER